THE HONOURABLE SRI JUSTICE P.S.NARAYANA

W.P.No.17090 of 2006

Between:
Bhooma Laxmamma Petitioner

And

The State Election Commissioner, A.P.Secunderabad,and others

Respondents

THE HONOURABLE SRI JUSTICE P.S.NARAYANA

W.P.No.17090 of 2006

ORDER:

1. The writ petition is filed for a Writ of Mandamus declaring the election of the 4th respondent as Sarpanch, Daddavada Gram Panchayat, Komarole Mandal, Prakasam District as illegal, and consequently set-aside the certificate of Election granted in Form No.29 read with Rule-63 in respect of the 4th respondent herein and pass such other suitable orders.

2. On 17-08-2006 Sri Prabhakar Rao had taken notice and requested time to file counter affidavit and on 23-08-2006, Sri Ratangapani Reddy had stated that he entered appearance on behalf of respondent No.4.

3. Counter affidavit is filed by the third respondent.

4. The main grievance of the petitioner is that the third respondent having permitted recounting cannot go back in the light of Rule 60 of Rules relating to the Andhra Pradesh Panchayat Raj (Conduct of Elections of Members and Sarpanchs of Gram Panchayats, Members of Mandal Parishads and Members of Zilla Parishads) Rules, 2006 and G.O.Ms.No.142 Panchyayat Raj & Rural Development (Elections) Department, dated 3.5.2006.

5. The counsel representing respondents 1 to 3 had taken this court through the stand taken by the third respondent in the counter affidavit and would submit that in the light of the facts and circumstances, it cannot be said that there is contravention of any rules whatsoever. Even otherwise, the learned counsel would submit that in the light of the specific stand taken by the third respondent in the

counter affidavit, in general and in Paras 4,5 and 6 in particular, the remedy of the writ petitioner is to approach election tribunal. In the light of the factual controversy between the parties, inasmuch as the contravention of Rule 60 and Rule 56 had been specifically raised, this court is of the considered opinion that this aspect also may have to be gone into by the appropriate election tribunal. In view of the same, the petitioner is given liberty to approach the appropriate election tribunal by way of election petition.

6. The writ petition is disposed of. No order as to costs.

_____

04-09-2006

Stp